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1981

# LEGISLATIVE RESEARCH COMMISSION

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## TEMPORARY EMPLOYEES RETIREMENT



### REPORT TO THE 1981 GENERAL ASSEMBLY OF NORTH CAROLINA

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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH 27611



January 14, 1981

TO THE MEMBERS OF THE 1981 GENERAL ASSEMBLY

Transmitted herewith is the report prepared by the Committee to Study Temporary Employees' Retirement. The study was conducted pursuant to Senate Bill 385, Chapter 939, of the 1979 Session Laws, and this report is submitted to the members of the General Assembly for their consideration.

Respectfully submitted,

Handwritten signature of Carl J. Stewart, Jr. in cursive script, written over a horizontal line.

Carl J. Stewart, Jr.

Handwritten signature of W. Craig Lawing in cursive script, written over a horizontal line.

W. Craig Lawing

Cochairmen

LEGISLATIVE RESEARCH COMMISSION

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## PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1979 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories, and each member of the Commission was given responsibility for one category of studies. The Cochairmen of the Legislative Research Commission, under the authority of General Statutes 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and of the public to conduct the studies. Cochairmen, one from each house of the General Assembly, were designated for each committee.

The Study of Retirement Coverage for State Temporary Employees was directed by Senate Bill 385, Chapter 939 of the 1979 Session Laws of North Carolina. (First Session, 1979.) The charge to the Committee

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in Section I of the bill is to continue the study begun by Chapter 1294 of the 1977 Session Laws on retirement coverage for temporary State employees. The study was directed by Chapter 1294 to consider the situation of permanent employees who were previously classified temporary. A copy of this bill is found in Appendix B of this report. A list of the members of the Legislative Research Commission and of the Committee, and a list of witnesses who appeared before the Committee is included in Appendix A.

## COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Retirement Coverage for Temporary Employees met twice during 1979 and 1980. The Cochairmen, Representative Edd Nye and Senator William A. Creech, convened the first meeting of the Committee on November 15, 1979. The history of the Committee was discussed, with reference to Senate Bill 385, Chapter 939. (See Appendix B.)

The present Committee was a continuation of an interim study committee which had reported to the 1979 General Assembly its concern that further study be given to the problem of how to give retirement benefits to valuable temporary service to the State without violating the fiscal integrity of the Teachers' and State Employees' Retirement System, which was designed to give benefits only to full-time permanent State teachers and employees. This earlier Committee was almost completely frustrated in its attempt to gather personnel classification data from all State agencies, entities, divisions and departments sufficient to permit any evaluation of how much inclusion of temporary employees would cost. The very lack of data confirmed this Committee's belief that misclassification of teachers and employees was going on and that many State workers were being wrongly classified as "temporary" and hence were being denied any retirement benefits even though they worked for the State throughout their working lives. The earlier Committee was unable to propose legislation that would be effective to correct these classification abuses but requested further

study be given to this problem as well as to the more general one of whether to benefit temporary service by the Teachers' and State Employees' Retirement System. This Committee did propose to the General Assembly, and the General Assembly did adopt, a pilot program permitting a small, identifiable group of temporary employees, those of the General Assembly, to be members of the Teachers' and State Employees' Retirement System, with certain restrictions, and to purchase credit for prior temporary service on a pro rata basis. (See Appendix C.) It was hoped that the success or failure of this pilot program would aid further study.

The present Committee began its consideration by deciding not to give retirement benefits to temporary State teachers or employees who are students, but was not ready to narrow its focus further.

Mr. Dennis Ducker of the Treasurer's Office, Assistant Director of T.S.E.R.S., presented to the Committee the philosophy of the Teacher's and State Employees' Retirement System, to recruit competent people into public service and to encourage them to stay there. He identified three groups of valuable State employees who could be so encouraged. The first group is made up of temporary, seasonal, full-time employees such as those who serve the General Assembly, and the Department of Revenue during tax time; the second group is made up of presently permanent full-time State employees who are now members of the Retirement System but who had previous employment as temporary, full-time employees. The third group is made up of those who work almost year-round,

full-time, but who remain "temporary," such as "interim" teachers and newly contracted teachers in their first year of employment, and as those the previous Committee considered misclassified.

Mr. Ducker stressed that permitting the first group into the Retirement System would be most costly, and reminded the Committee that a special fund had had to be appropriated in order to let temporary employees of the General Assembly into the Retirement System. He emphasized, as had the earlier Committee, that the third group were probably being misclassified, and that this misclassification, though extremely serious, was a personnel problem, not one that could or should be rectified by retirement legislation. The second group should be the focus of the present Committee, Mr. Ducker stated, as it is made up of members of the Retirement System already. Permitting people in this group to purchase credit for prior temporary service would be merely an administrative rather than a philosophical or a legal problem and it would provide for equitable treatment of all members of the Retirement System who have given valuable prior service to the State, regardless of whether that service was performed by a permanent full-time, or by a temporary full-time employee or teacher.

The Committee basically agreed with Mr. Ducker's analysis and requested staff to continue to attempt to gather necessary personnel classification data.

The Committee met a second time, on September 18, 1980. The meeting was a joint one, held with the Legislative

Research Commission's Committee on Alternative Work Schedules. The Committee received testimony from several special interest groups on classification problems. After the joint meeting, the Committee met separately. Staff discussed the incompleteness of the data gathered concerning misclassification of employees. The Committee also discussed the mechanisms by which present members of the Retirement System could purchase prior temporary non-student service. One suggestion was made to appropriate money to a special fund to provide for the purchases. Such a fund was set up when members of the Retirement System became able to purchase prior military service. In order to generate data sufficient to allow a guess as to the necessary appropriations, staff was requested to survey all State agencies, departments, divisions and entities as to their permanent, full-time employees' prior temporary service. Another suggestion, and the one supported by the Retirement System, was to permit purchase upon payment of full actuarial cost, except in cases of misclassification. Such payment plan would require only such appropriations necessary to fund the employer's share for those permanent full-time employees and teachers who have been found to have been misclassified as "temporary" in the past. (See Appendix D.) The Committee directed staff to examine both suggestions and to come up with proposed legislation that would best handle the problems with least cost to the State. (See Appendix E.) Staff was also directed to propose a draft report to be sent to all the Committee members for their approval.

## FINDINGS

After having reviewed the information brought forth during its meetings, the Legislative Research Commission's Committee on Retirement Coverage for Temporary State Employees makes the following findings:

Finding 1. The Committee finds that there is a real and pressing need for equitable treatment of members of the Teachers' and State Employees' Retirement System who have had prior non-student temporary State employment in order to reward their long years of service to the State, and that this equitable treatment must include retirement benefits in proportion to their service rendered the State.

Finding 2. The Committee finds that there is no present, pressing need to expand the Teachers' and State Employees' Retirement System to include those who are presently temporary employees, that the present Retirement System was designed to benefit permanent, full-time employees, and that the proposed correction of the inequities resulting to full-time employees, who are not able now to receive credit for prior temporary employment, is an elaboration rather than a radical expansion of the present system.

Finding 3. The Committee finds that, in allowing a member of the Retirement System to purchase service as a temporary non-student employee, the cost of the purchase should be borne by the employee and not by the State or the

Retirement System, with the exception of the cost of the purchase of prior "temporary" service by those employees who have been determined to have been misclassified as "temporary" by their employing agencies.

Finding 4. The Committee finds that, in many cases, State employees and teachers are misclassified, whether intentionally or unintentionally, as "temporary," by their employing agencies, and that some mechanism must be established to protect State employees and teachers from misclassification and from a concomitant loss of retirement benefits.

Finding 5. The Committee finds that there is a vital need for better record-keeping by all State departments, agencies, divisions and entities on all employees, particularly on those who are classed as "temporary".

## RECOMMENDATIONS

The Legislative Research Commission's Committee on Retirement Coverage for Temporary State Employees, after a review of the data collected by the Committee and in light of its findings, makes the following recommendations:

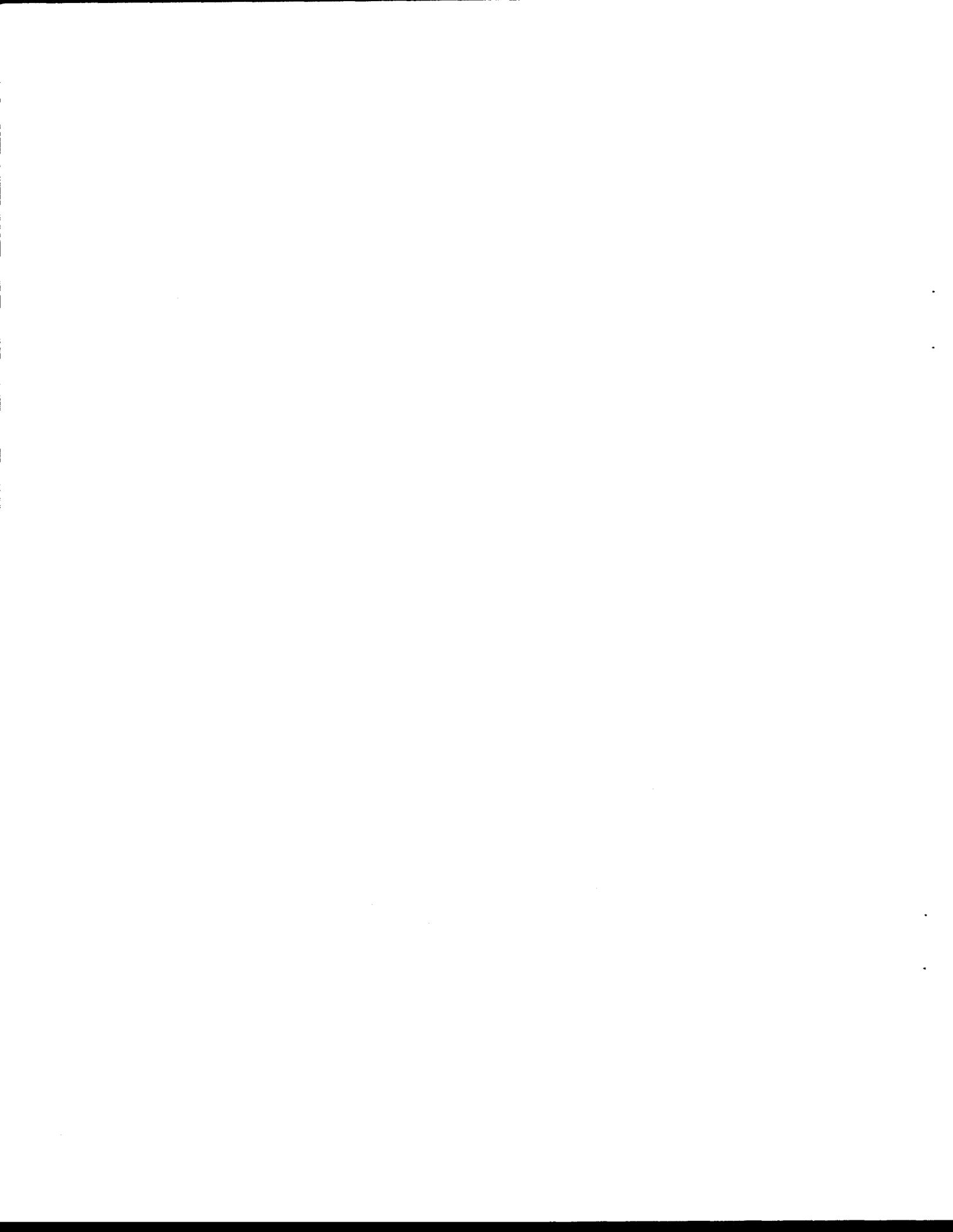
Recommendation 1. The General Assembly should enact legislation to permit members of the Teachers' and State Employees' Retirement System to purchase prior service as temporary non-student State employees after 10 years of membership service, and should appropriate sufficient funds for the State contribution for the purchase of the prior credit of those members who have been found to have been misclassified as "temporary" in their prior service.

(Legislative Proposal 1.)

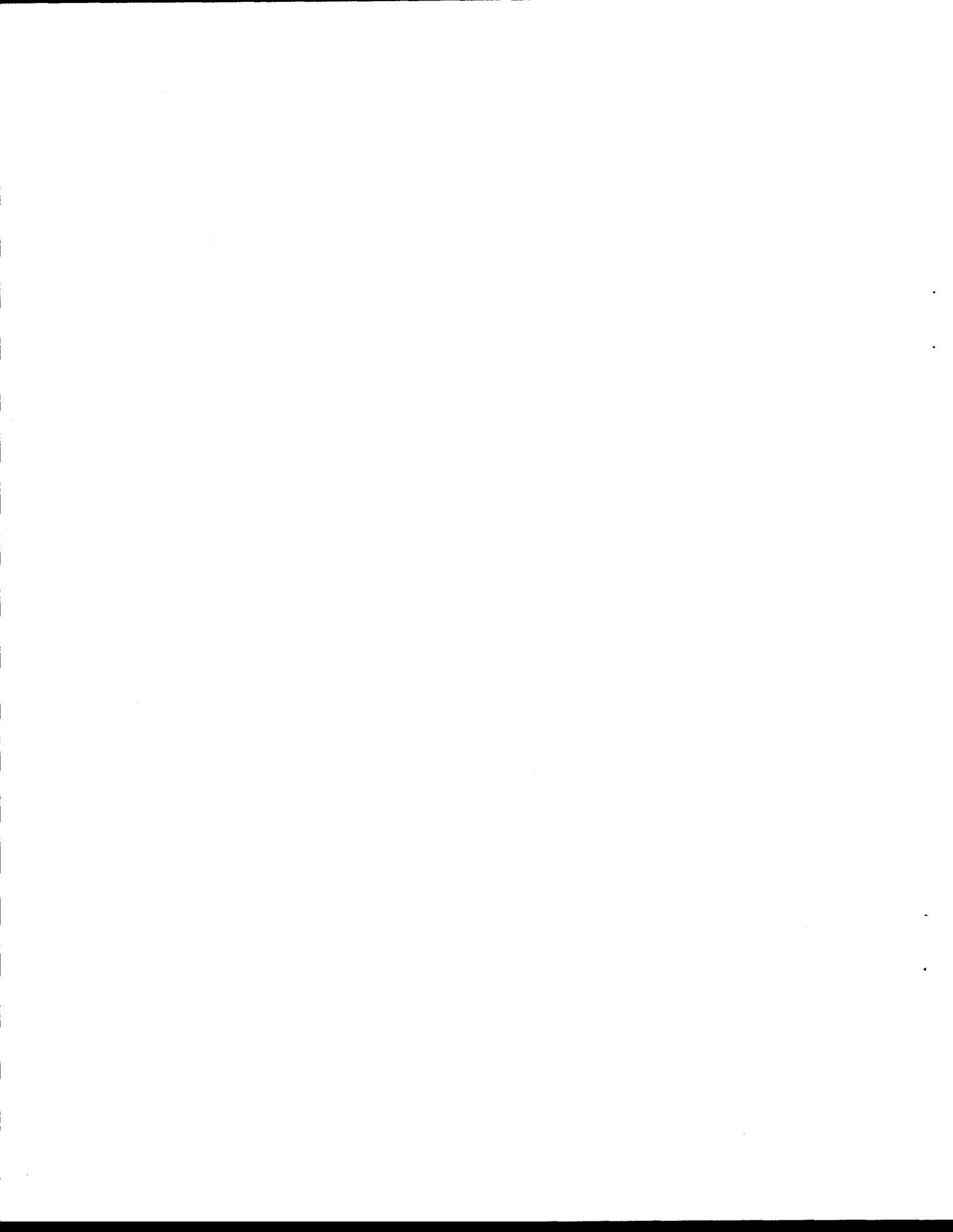
Recommendation 2. The State Personnel Commission should begin a review of the "temporary" classification as used by State departments, agencies, divisions and entities in order to correct any abuses of the classification system.

Recommendation 3. The Department of Public Education should begin a review of the "temporary" or "interim" teacher classification as used by local school boards in order to correct any abuses of the classification system.

Recommendation 4. All State departments, agencies, divisions and entities should review their record-keeping procedures involving personnel classification in order to correct any abuses of the classification system.



APPENDIX A



LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

House Speaker Carl J. Stewart, Jr.  
Chairman

Representative Chris S. Barker, Jr.

Representative John R. Gamble, Jr.

Representative H. Parks Helms

Representative John J. Hunt

Representative Lura S. Tally

Senate President Pro Tempore  
W. Craig Lawing, Chairman

Senator Henson P. Barnes

Senator Melvin Daniels, Jr.

Senator Carolyn Mathis

Senator R. C. Soles, Jr.

Senator Charles Vickery

LEGISLATIVE RESEARCH COMMISSION

Committee on

RETIREMENT COVERAGE FOR TEMPORARY STATE EMPLOYEES

Representative Chris S. Barker, Jr., LRC Member  
P.O. Box 998  
New Bern, North Carolina 28560

Senator William A. Creech, Cochairman  
P.O. Box 826  
Raleigh, N. C. 27601

Representative Edd Nye, Cochairman  
Courthouse Drive  
Elizabethtown, N.C. 28337

Mr. Steve F. Ammons  
P.O. Box 1150  
Fayetteville, N.C. 28302

Mr. Robert Cashion  
Cashion's Food Mart  
Cornelius, N.C. 28031

Representative Thomas W. Ellis, Jr.  
P.O. Box 456  
Henderson, N. C. 27536

Representative Liston B. Ramsey  
Walnut Creek Road  
Marshall, N.C. 28753

Miss Jo Warren  
Q-1 Apartment  
2300 Avent Ferry Road  
Raleigh, N.C. 27606

Representative Barney Paul Woodard  
P.O. Box 5  
Princeton, N.C. 27569

WITNESSES APPEARING

Mr. Stanley Dail  
North Carolina Association of Educators  
Raleigh, N. C.

Mr. Dennis Ducker  
Teachers' & State Employees'  
Retirement System  
Raleigh, N.C. 27608

Mr. Lloyd Isaacs  
North Carolina Association of Educators  
Raleigh, N. C.

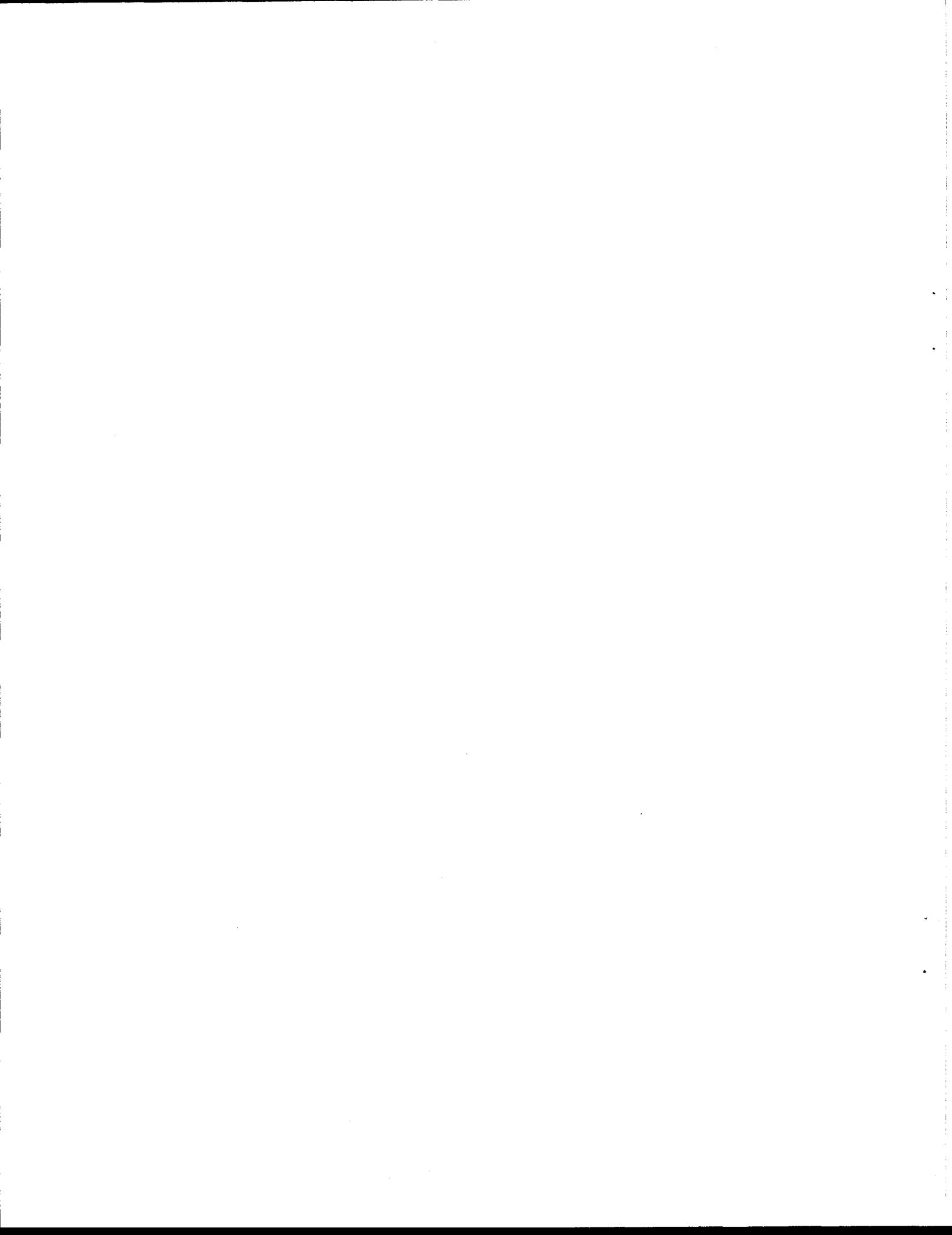
Mr. Sam Ranzino  
North Carolina Association of Educators  
Raleigh, N. C.

Mr. Harold Webb, Director  
Office of State Personnel  
Department of Administration  
Raleigh, N. C.



APPENDIX B

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1979  
RATIFIED BILL

CHAPTER 939

SENATE BILL 385

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY THE NEED FOR RETIREMENT COVERAGE FOR TEMPORARY EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is authorized to continue to study the need for retirement coverage for State temporary employees as authorized by Chapter 1294 of the 1977 Session Laws (Second Session, 1978). The Legislative Research Commission may report to the 1981 Session of the General Assembly.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

JAMES C. GREEN

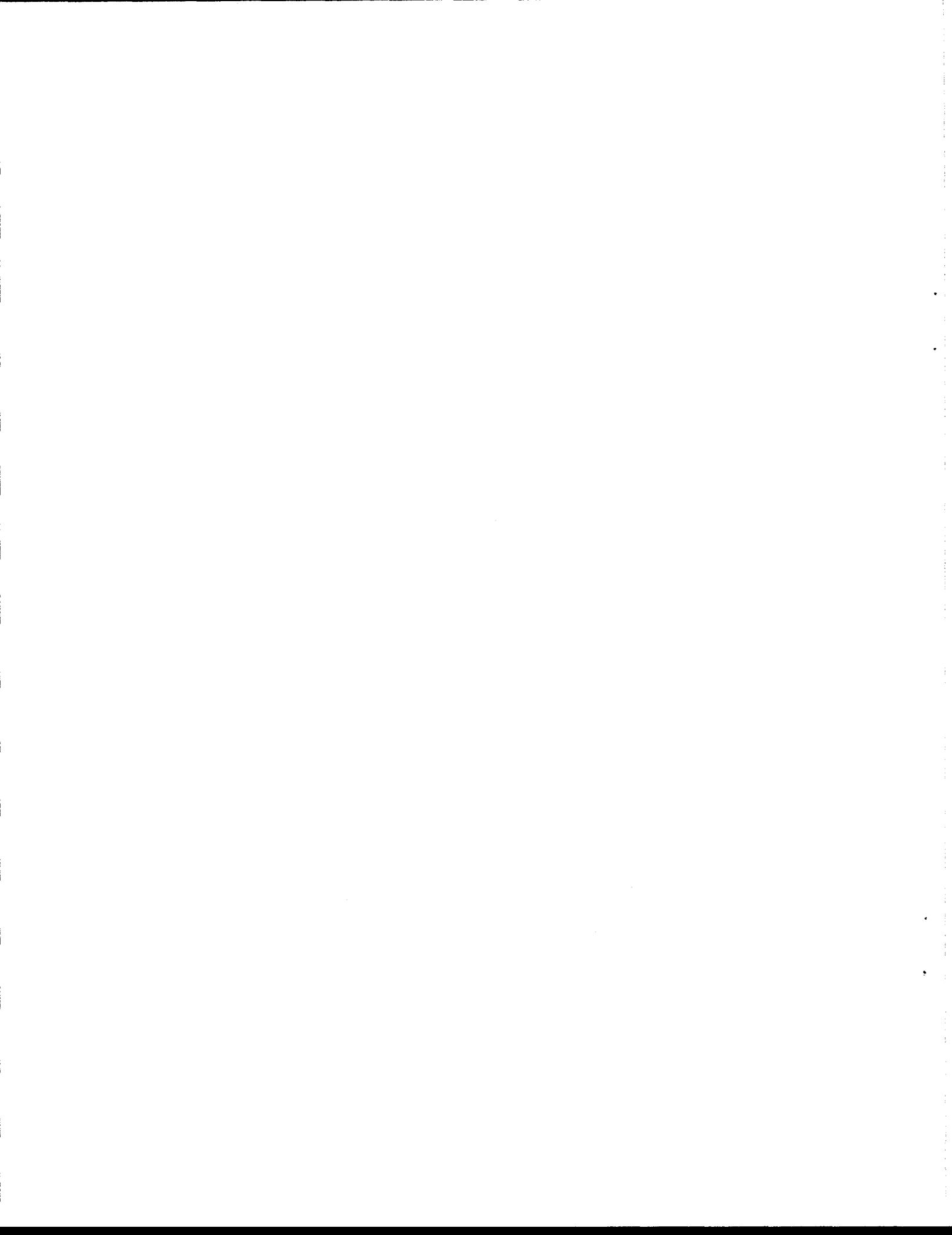
James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives



APPENDIX C



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1979  
RATIFIED BILL

CHAPTER 972

HOUSE BILL 698

AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES RELATING TO RETIREMENT AND MEDICAL AND CONTRIBUTION PLANS FOR EMPLOYEES OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-1(10) is amended by deleting, in line 6, the words "or officer," and by inserting in line 7, following the word "employee" the following sentence: "Notwithstanding any other provision of law, 'employee' shall include all employees of the General Assembly except participants in the Legislative Intern Program and pages."

Sec. 2. G.S. 135-3(1) is amended by adding a new sentence at the end to read as follows:

"On or after July 1, 1979, upon election, appointment or employment, a Legislative Employee shall automatically become a member of the Teachers' and State Employees' Retirement System."

Sec. 3. G.S. 135-4(e) is amended by adding a new paragraph at the end of the subsection to read as follows:

"On or after July 1, 1979, a member who has obtained sixty (60) months of aggregate service, or five (5) years of membership service, as an employee of the North Carolina General Assembly, except Legislators, participants in the Legislative Intern Program and pages, may make a lump sum payment together with interest, and an administrative fee for such service, to the

Teachers' and State Employees' Retirement System of an amount equal to what he would have contributed had he been a member on his first day of employment."

Sec. 4. This first paragraph of G.S. 135-5(1) is amended by deleting ";" from the end of the subparagraph numbered (3) substituting ", or", and adding a new subparagraph to read as follows:

"(4) The compensations on which contributions were made by the member during the highest 12-month period of the prior 24-month period ending on the last day of the month on which his death occurs."

Sec. 5. The first sentence of G.S. 135-33 is rewritten to read as follows:

"The Board of Trustees of the Retirement System shall formulate, establish and administer for teachers and State employees, including all employees of the General Assembly except participants in the Legislative Intern Program and pages, a program of hospital and medical care benefits to the extent that funds for such benefits are specifically appropriated by the General Assembly."

Sec. 6. The first sentence of G.S. 135-34 is rewritten to read as follows:

"The Board of Trustees of the Retirement System shall formulate, establish and administer for teachers and State employees with one or more years of service, including all employees of the General Assembly except participants in the Legislative Intern Program and pages, a program of disability

salary continuation benefits to the extent that funds for such benefits are specifically appropriated by the General Assembly."

Sec. 7. G.S. 135-36 is amended by adding, on line 5, after the word "employees" the words "and all employees of the General Assembly except participants in the Legislative Intern Program and pages,".

Sec. 8. This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

JAMES C. GREEN

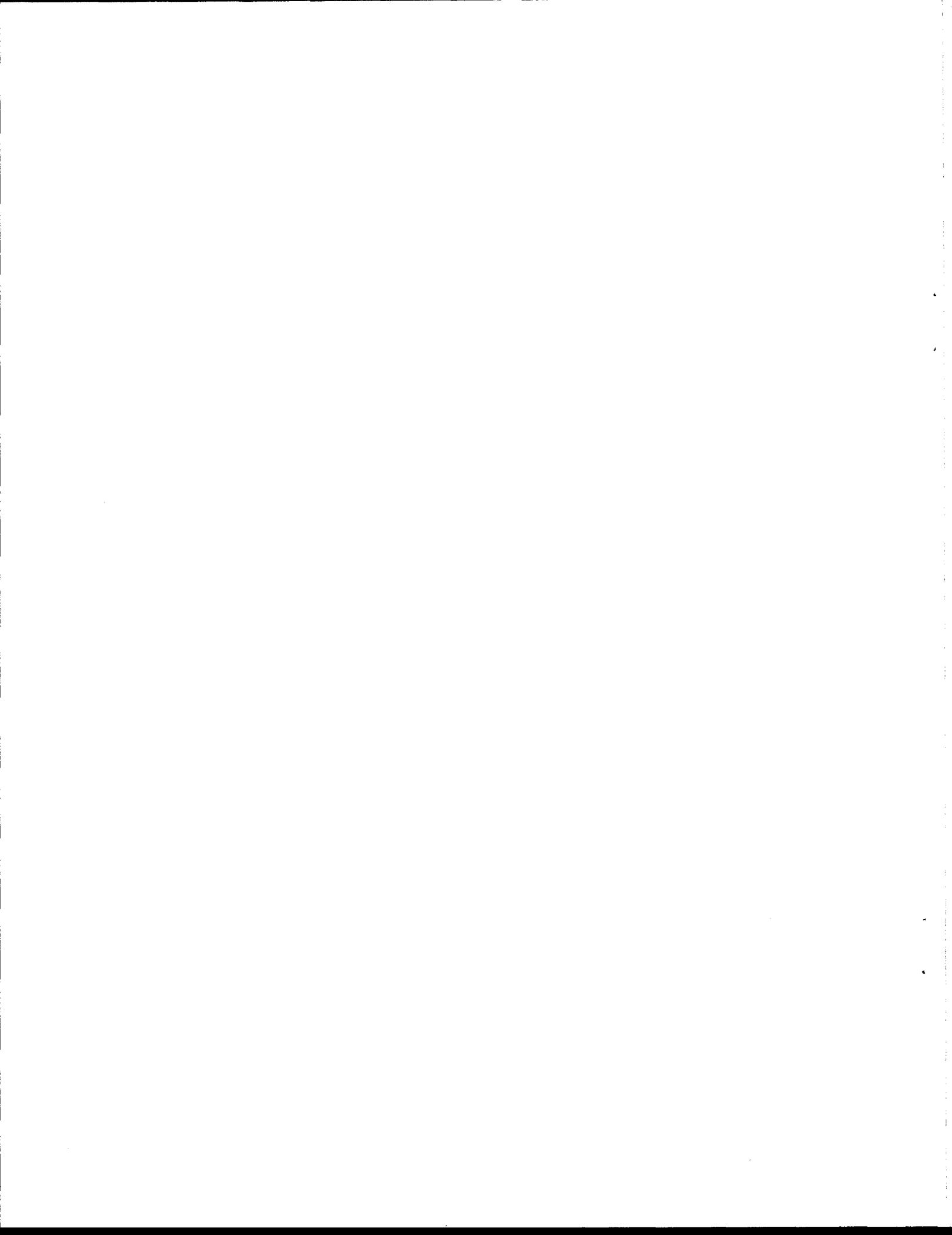
James C. Green  
President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.  
Speaker of the House of Representatives



APPENDIX D



H. B. 1144

CHAPTER 968

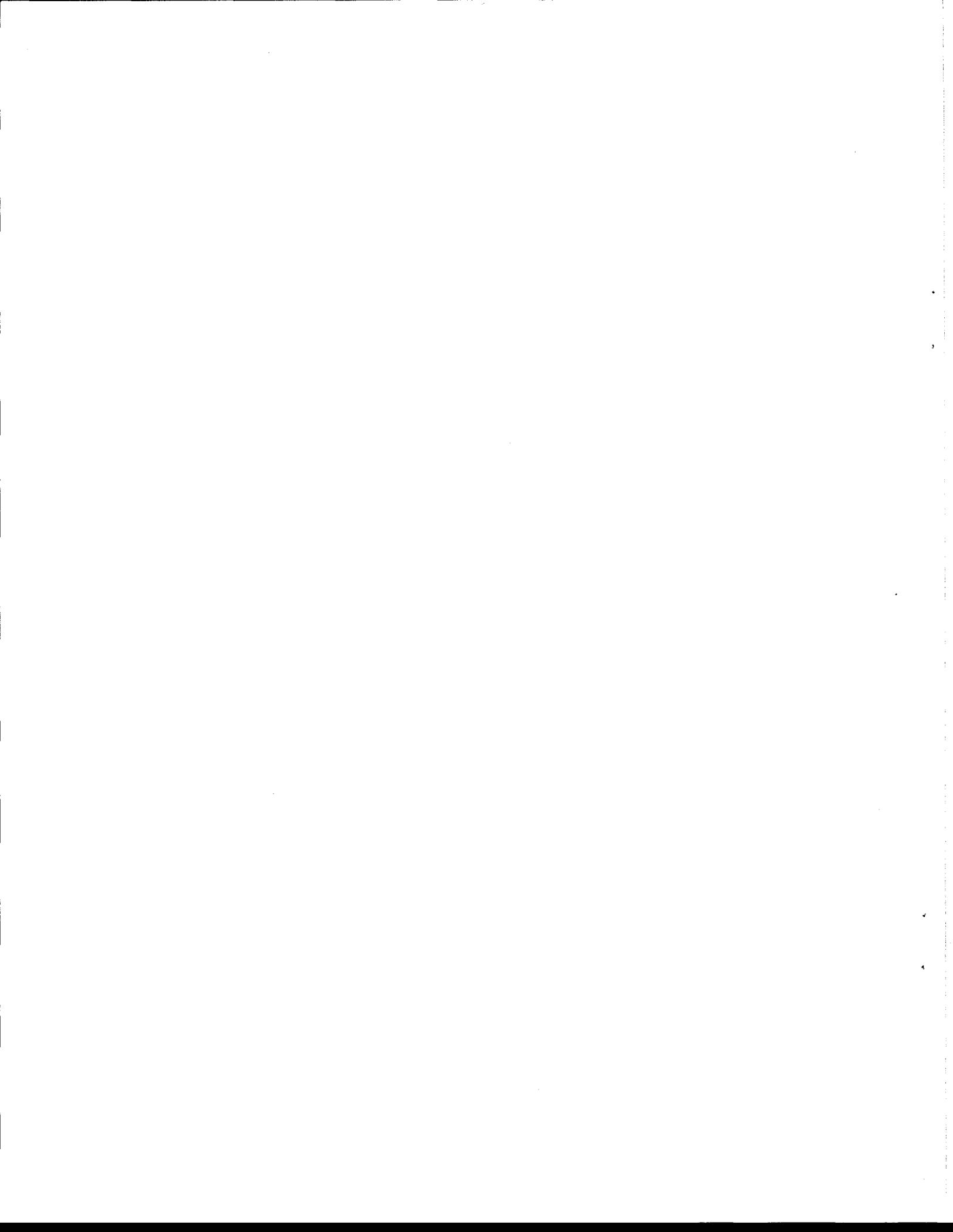
AN ACT TO APPROPRIATE THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) FROM THE STATE HIGHWAY FUND IN 1975-76 AND ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) FROM THE STATE HIGHWAY FUND IN 1976-77 TO PROVIDE RETIREMENT SYSTEM COVERAGE FOR STATE HIGHWAY COMMISSION PERMANENT EMPLOYEES HERETOFORE INADVERTENTLY CLASSIFIED AS TEMPORARY EMPLOYEES

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated out of the State Highway Fund the sum of three hundred fifty thousand dollars (\$350,000) in 1975-76 and one hundred fifty thousand dollars (\$150,000) in 1976-77 to be expended by the Division of Highways of the North Carolina Department of Transportation in making payments to the Teachers' and State Employees' Retirement System of the employee's contributions with respect to full time permanent employees of the Division who heretofore were inadvertently classified as temporary employees. Such payments shall be conditioned upon an employee's making a lump sum payment, together with interest thereon, to the retirement system of an amount equal to the employee's contribution which the employee would have made had he initially been properly classified as a permanent employee. Any part of the above described appropriation not expended for the above described purpose on July 1, 1977, shall revert to the State Highway Fund.

**Sec. 2.** This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this, the 26th day of June, 1975.



APPENDIX E



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## SESSION 19 \_\_\_\_\_

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INTRODUCED BY:

### Legislative Proposal I

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Referred to:

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1 A BILL TO BE ENTITLED AN ACT TO PERMIT MEMBERS OF THE TEACHERS'  
2 AND STATE EMPLOYEES' RETIREMENT SYSTEM TO PURCHASE CREDIT  
3 FOR PRIOR TEMPORARY NON-STUDENT STATE SERVICE.

4 The North Carolina General Assembly enacts:

5 Section 1. G.S. 135-4 is amended by adding a new  
6 subsection to read:

7 "(q) Temporary Service Credit. Upon completion of 10  
8 years of membership service, any member may purchase service  
9 previously rendered as a temporary teacher or employee of  
10 the State except for service rendered while a full-time  
11 student in pursuit of a degree or diploma in a degree-  
12 granting program. Payment shall be made in a single lump  
13 sum in an amount equal to the full actuarial cost of providing  
14 credit for the service, together with interest and an adminis-  
15 trative fee, as determined by the Board of Trustees on the  
16 advice of the Retirement System's actuary, unless the prior  
17 service has been determined to have been rendered while the  
18 employee or teacher was misclassified as temporary. If the  
19 member has been found to have been so misclassified in the  
20 past, he may purchase this prior service by making a lump  
21 sum payment together with interest to the Retirement System  
22 of an amount equal to the employee's contribution which he  
23 would have made had he initially been properly classified as  
24 a permanent full-time employee."

**SESSION 19** \_\_\_\_\_

1                   Sec. 2. There is appropriated from the General  
2 Fund to the Department of Administration the sum of  
3 for the fiscal year 1981-82, and the sum of  
4 for the fiscal year 1982-83, for the purpose of making  
5 payment to the Teachers' and State Employees' Retirement  
6 System of the employer's contributions with respect to  
7 members of the Teachers' and State Employees' Retirement  
8 System who previously were misclassified as temporary  
9 employees. These payments shall be conditioned upon an  
10 employee's making a lump sum payment, together with interest,  
11 to the Retirement System of an amount equal to the employee's  
12 contribution which the employee would have made had he  
13 initially been properly classified as a full-time permanent  
14 employee.

15                   Sec. 3. This act shall become effective July 1,  
16 1981.

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